

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

United States Patent Application No. 10/580,572

Title: Irciniastatins A and B

Inventors: Pettit et al.

Filing Date: May 24, 2006

Confirmation No.: 5576

Examiner: Bernard I. Dentz

Art Unit: 1625

Docket No. 12504.558

REQUEST FOR REFUND UNDER 37 C.F.R. § 1.26(a)

Mail Stop 16
Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This is a request for a refund in the amount of \$100 for the reasons set forth below.

On May 24, 2006, Applicant submitted a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission Under 35 U.S.C. §371 (the "Transmittal") and check no. 290132 in the amount of \$200.00 in the above-identified patent application (copies attached). This fee represented the small entity fees for the basic national fee (\$150), and the search fee (\$50). It was and still is believed that we did not have to pay the examination fee of \$100 because the Written Opinion of the International Searching Authority (hereinafter "Written Opinion") indicated that all claims satisfy the provisions of PCT Article 33 (1)-(4). A copy of the Written Opinion is also attached.

On March 5, 2007, our deposit account no. 060590 was charged in the amount of \$100.00 (a copy of the deposit account statement is also enclosed). We believe the charge to the deposit

REQUEST FOR REFUND UNDER 37 C.F.R. §1.26(a)

Docket No. 12504.558

Title: "Irciniastatins A and B"

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account to be in error, in view of the fact that the Written Opinion did, in fact, indicate that all claims satisfied the provisions set forth in PCT Article 33(1)-(4).

In view of the foregoing, a refund in the amount of \$100.00 is respectfully requested.

Please credit Deposit Account No. 060590 for this amount.

If there are any questions regarding the foregoing, please contact the undersigned.

Dated: September 2, 2008

Respectfully submitted,

/Susan Stone Rosenfield/ 

Susan Stone Rosenfield
Reg. No. 36,287
FENNEMORE CRAIG
Customer No. 27,887
3003 N. Central Avenue, Suite 2600
Phoenix, Arizona 85012-2913
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Fax (602) 916-5517

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER 12504.558
		U.S. APPLICATION NO. (If known, see 37 CFR 1.5)
INTERNATIONAL APPLICATION NO. PCT/US04/38530	INTERNATIONAL FILING DATE 17 November 2004	PRIORITY DATE CLAIMED 25 November 2003
TITLE OF INVENTION IRCINIASTATINS A AND B		
APPLICANT(S) FOR DO/EO/US PETTIT, et al.		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a submission under 35 U.S.C. 371.		
2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a submission under 35 U.S.C. 371.		
3. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.		
4. <input checked="" type="checkbox"/> The US has been elected (Article 31).		
5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2))		
a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau).		
b. <input type="checkbox"/> has been communicated by the International Bureau.		
c. <input checked="" type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US).		
6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).		
a. <input type="checkbox"/> is attached hereto.		
b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).		
7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))		
a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).		
b. <input type="checkbox"/> have been communicated by the International Bureau.		
c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.		
d. <input checked="" type="checkbox"/> have not been made and will not be made.		
8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).		
9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).		
10. <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).		
Items 11 to 20 below concern document(s) or information included:		
11. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.		
12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.		
13. <input checked="" type="checkbox"/> A preliminary amendment.		
14. <input type="checkbox"/> An Application Data Sheet under 37 CFR 1.76.		
15. <input type="checkbox"/> A substitute specification.		
16. <input type="checkbox"/> A power of attorney and/or change of address letter.		
17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821- 1.825.		
18. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4).		
19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).		

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO. PCT/US04/38530		ATTORNEY'S DOCKET NUMBER 12504.558	
20. Other items or information:					
The following fees have been submitted				CALCULATIONS PTO USE ONLY	
21. <input checked="" type="checkbox"/> Basic national fee (37 CFR 1.492(a))..... \$300				\$ 300	
22. <input checked="" type="checkbox"/> Examination fee (37 CFR 1.492(c))				\$ 0	
If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)..... \$0 All other situations..... \$200					
23. <input checked="" type="checkbox"/> Search fee (37 CFR 1.492(b)) If the written opinion of the ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)..... \$0 Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority..... \$100 International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB..... \$400 All other situations..... \$500				\$ 100	
TOTAL OF 21, 22 and 23 =				400	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE		
- 100 =	0 / 50 =	0	x \$250	\$ 0	
Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).				\$ 0	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	8 - 20 =	0	x \$ 50	\$ 0.00	
Independent claims	2 - 3 =	0	x \$200	\$ 0.00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$360	\$ 0.00	
TOTAL OF ABOVE CALCULATIONS =				\$ 400.00	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.				200.00	
SUBTOTAL =				\$ 200.00	
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).				\$	
TOTAL NATIONAL FEE =				\$ 200.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property				\$	
TOTAL FEES ENCLOSED =				\$ 200.00	
				Amount to be refunded:	\$
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- a. ☒ A check in the amount of \$ 200.00 to cover the above fees is enclosed.
- b. ☐ Please charge my Deposit Account No. 060590 in the amount of \$ _____ to cover the above fees.
A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 060590. A duplicate copy of this sheet is enclosed.
- d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

ROSENFELD, Susan Stone
Fennemore Craig, P.C.
3003 N. Central Avenue, Suite 2600
Phoenix, Arizona 85012-2913
United States of America

Tel: (602) 916-5317


SIGNATURE

ROSENFELD, Susan Stone

NAME

36,287

REGISTRATION NUMBER

Dated: May 24, 2006

FENNEMORE CRAIG

No. 290132

DATE

DOCUMENT NO.

DESCRIPTION

NET AMOUNT

TOTAL \$200.00

Rev3

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Phoenix, Arizona 85012-2913Wells Fargo Bank, N.A.
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
SUSAN STONE ROSENFELD
FENNEMORE CRAIG, P.C.
3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, AZ 85012-2913

PCT

REC'D 06 JUN 2005

WRITTEN OPINION OF THE IPO
INTERNATIONAL SEARCHING AUTHORITY

PCT

(PCT Rule 43bis.1)

Date of mailing
(day/month/year)

03 JUN 2005

Applicant's or agent's file reference

12504-529

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US04/38530

International filing date (day/month/year)

17 November 2004 (17.11.2004)

Priority date (day/month/year)

25 November 2003 (25.11.2003)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): C07D 311/12, 311/14, 311/18; A61K 31/352 and US Cl.: 549/289, 290; 514/456, 457

Applicant

ARIZONA BOARD OF REGENTS, A BODY CORPORATE OF THE

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPPEA and the chosen IPPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPPEA, the applicant is invited to submit to the IPPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

Ba K. Trinh

Telephone No.: (571) 272-0600

Form PCT/ISA/237 (cover sheet) (January 2004)

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US04/38530

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US04/38530

Box No. V Reasoned statement under Rule 43 *bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims 1-8 YES

Claims NONE NO

Inventive step (IS)

Claims 1-8 YES

Claims NONE NO

Industrial applicability (IA)

Claims 1-8 YES

Claims NONE NO

2. Citations and explanations:

Claims 1-8 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the current compounds which are extracted from marine sponge *Ircinia ramosa*.

Claims 1-8 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

**United States
Patent and
Trademark Office**

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Page**Deposit Account Statement**

Requested Statement Month: March 2007
Deposit Account Number: 060590
Name: FENNEMORE CRAIG
Attention: MS TERRI BEEKS
Address: 3003 N CENTRAL AVENUE
City: PHOENIX
State: AZ
Zip: 85012-2913
Country: UNITED STATES

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
03/01	3818	11574506	15872.024	2631	\$150.00	\$17,367.51
03/01	3819	11574506	15872.024	2641	\$50.00	\$17,317.51
03/01	3820	11574506	15872.024	2633	\$100.00	\$17,217.51
03/01	3822	11574506	15872.024	2614	\$300.00	\$16,917.51
03/01	3821	11574506	15872.024	2615	\$1,275.00	\$15,642.51
03/01	3840	11574507	15872.025	2631	\$150.00	\$15,492.51
03/01	3841	11574507	15872.025	2641	\$50.00	\$15,442.51
03/01	3842	11574507	15872.025	2633	\$100.00	\$15,342.51
03/01	3843	11574507	15872.025	2615	\$825.00	\$14,517.51
03/01	3844	11574507	15872.025	2614	\$400.00	\$14,117.51
03/05	125	60904229	91482.001.4	2005	\$100.00	\$14,017.51
03/05	14	10580572	12504.558	2633	\$100.00	\$13,917.51

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
\$17,517.51	\$3,600.00	\$.00	\$13,917.51

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1822/2822	1.20(c)(4)	in excess of the number of claims in the patent under reexamination	50.00	25.00
1814/2814	1.20(d)	Statutory disclaimer	130.00	65.00
Patent Extension of Time Fees			Back to Top	
1251/2251	1.17(a)(1)	Extension for response within first month	120.00	60.00
1252/2252	1.17(a)(2)	Extension for response within second month	450.00	225.00
1253/2253	1.17(a)(3)	Extension for response within third month	1,020.00	510.00
1254/2254	1.17(a)(4)	Extension for response within fourth month	1,590.00	795.00
1255/2255	1.17(a)(5)	Extension for response within fifth month	2,160.00	1,080.00
Patent Appeals/Interference Fees			Back to Top	
1401/2401	41.20(b)(1)	Notice of appeal	500.00	250.00
1402/2402	41.20(b)(2)	Filing a brief in support of an appeal	500.00	250.00
1403/2403	41.20(b)(3)	Request for oral hearing	1,000.00	500.00
Patent Petition Fees			Back to Top	
1462	1.17(f)	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I)	400.00	
1463	1.17(g)	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II)	200.00	
1464	1.17(h)	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III)	130.00	
1451	1.17(j)	Petition to institute a public use proceeding	1,510.00	
1452/2452	1.17(l)	Petition to revive unavoidably abandoned application	500.00	250.00
1453/2453	1.17(m)	Petition to revive unintentionally abandoned application	1,500.00	750.00
1454	1.17(t)	Acceptance of an unintentionally delayed claim for priority	1,370.00	
1455	1.18(e)	Filing an application for patent term adjustment	200.00	
1456	1.18(f)	Request for reinstatement of term reduced	400.00	
1457	1.20(j)(1)	Extension of term of patent	1,120.00	
1458	1.20(j)(2)	Initial application for interim extension (see 37 CFR 1.790)	420.00	
1459	1.20(j)(3)	Subsequent application for interim extension (see 37 CFR 1.790)	220.00	
PCT Fees - National Stage			Back to Top	
1631/2631	1.492(a)	Basic National Stage Fee	300.00	150.00
1640/2640	1.492(b)(1)	National Stage Search Fee - U.S. was ISA or IPEA and all claims satisfy PCT Article 33(1)-(4)	0.00	0.00
1641/2641	1.492(b)(2)	National Stage Search Fee - U.S. was the ISA	100.00	50.00
1642/2642	1.492(b)(3)	National Stage Search Fee - search report prepared and provided to USPTO	400.00	200.00
1632/2632	1.492(b)(4)	National Stage Search Fee - all other situations	500.00	250.00
1643/2643	1.492(c)(1)	National Stage Examination Fee - U.S. was ISA or IPEA and, all claims satisfy PCT Article 33(1)-(4)	0.00	0.00
1633/2633	1.492(c)(2)	National Stage Examination Fee - all other situations	200.00	100.00
1614/2614	1.492(d)	Claims - extra independent (over three)	200.00	100.00